

assembly further includes a lower mounting element fixed to a lower portion of said panel assembly and an elongate and upright connector post having an upper end portion secured to said upper mounting element and a lower end portion secured to said lower mounting element, and a return wall fixed to said connector post so as to extend in transverse relation to one of said side covers.

40. (New) The wall panel assembly of Claim 36 wherein said mounting element supports an overhead storage unit which overlies a portion of one of said side covers.

REMARKS

The Office Action dated August 8, 2002 has been reviewed, and the application is amended herein in an effort to place same in condition for allowance. Reconsideration of the application is requested.

Applicants acknowledge, with appreciation, the indication of allowable subject matter included in Claims 4-6, and the allowance of Claims 10-14. Claims 18 and 19 added herein respectively depend from allowable Claim 4 and allowed Claim 10 and are therefore believed allowable as presented. Claim 1 from which Claims 4-6 depend is believed allowable for the reasons presented below.

Claims 1-3, 7 and 8 stand rejected under 35 USC 103 as unpatentable over Militzer (U.S. Patent No. 5 094 053) and Sykes (U.S. Patent No. 5 524 402). The Examiner states that Militzer does not show the vertical frame sides 11 and 12 connected by vertically spaced cross members as recited in independent Claim 1, and cites Sykes to cure this deficiency. Militzer teaches an upper horizontal frame side 13 which is fixed at opposite ends thereof to frame sides 11 and 12. Frame side 13 is of an upwardly opening channel shape which allows the attachment of a transverse wall element 10'' via a

shoulder strip 34. Sykes discloses an upper rail 123 which is fixed at opposite ends thereof to respective upright side rails 116. A capping plate 201 is then attached to rail 123 via connectors 206 to provide the rail 123 with a finished appearance.

It is submitted that there is no teaching or suggestion in either of Militzer or Sykes which would motivate one to position the upper frame side 13 of Militzer (ostensibly corresponding to the top cap in Claim 1) longitudinally along an upper cross member for removable securement thereto, as recited in Claim 1. More specifically, both the upper frame side 13 of Militzer and the upper rail 123 in Sykes interconnect a pair of uprights to one another, and thus are functionally equivalent structures. Accordingly, taking the teachings of both references as a whole, while one might be motivated to substitute one of these structures for the other, one would certainly not be motivated to modify Militzer to include an additional cross frame member and to position the frame side 13 longitudinally therealong and somehow removably secure the frame side 13 to this cross frame member. Accordingly, Claim 1 is believed allowable over Militzer and Sykes.

Claims 2, 3, 7, 8 and added Claim 20 depend from what is believed to be an allowable Claim 1, are allowable therewith, and include additional features which further distinguish over Militzer and Sykes. For example, Claim 20 recites that the furniture component is an overhead storage unit. Neither Militzer nor Sykes discloses an overhead storage unit.

Claim 9 stands rejected under 35 USC 103 as unpatentable over Militzer, Sykes and Morrison (U.S. Patent No. 4 567 698). Claim 9 depends from what is believed to be an allowable Claim 1, is believed allowable therewith, and includes additional features which further distinguish over the above references.

Claims 15-17 stand rejected under 35 USC 103 as unpatentable over Militzer, Sykes and DeRuiter (U.S. Patent No. 6 418 671). Independent Claim 15 recites an elongate top cap positioned longitudinally along an upper one of the frame members, the top cap having a lower mounting part which projects downwardly from the upper wall structure of the top cap and is clampingly engaged with the upper frame member. As discussed above with regard to Claim 1, there is no motivation to combine Militzer and Sykes by adding a frame member to Militzer's panel as the Examiner suggests, since the upper frame side 13 of Militzer and the upper rail 123 in Sykes are functionally equivalent structures. Further, there is no teaching in either of these references of a lower mounting part of a top cap clampingly engaged with an upper frame member. In this regard, the side frame 13 in Militzer is fixed at both ends to the upright side frames 11 and 12, and even if one were to add a horizontal frame member to Militzer's panel assembly as the Examiner suggests, there is nothing in either reference which suggests how the side frame 13 in Militzer would then be clampingly engaged with such a frame member. DeRuiter is cited as showing a bracket with a lower end defining a flange thereon, and does not cure the deficiency in Militzer as discussed above. Claim 15 is therefore believed allowable over the above references.

Claims 16, 17 and added Claim 21 depend from what is believed to be an allowable Claim 15, are allowable therewith, and include additional features which further distinguish over Militzer, Sykes and DeRuiter.

Claims 22-40 are added herein, of which Claims 22, 27, 32 and 36 are independent. Claims 22, 27, 32 and 36 are believed allowable over the art of record, including Militzer and Sykes as applied by the Examiner. Independent Claim 22 recites "an elongate and rigid top cap positioned above and along said rail member, a mounting structure clampingly engaging opposite

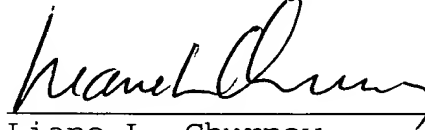
sides of both said top cap and said rail member to fixedly secure said top cap thereto" which is similar to the feature indicated as allowable by the Examiner in the Office Action. Claims 27 and 36 are similar to Claim 1 in that same recite a top cap engaged or secured to a cross member, and are therefore believed allowable for similar reasons as presented above. Independent Claim 32 is similar to Claim 15 and is believed allowable for the reasons given above relative to Claim 15.

An Information Disclosure Statement is submitted herewith along with several references for the Examiner's consideration. It is submitted that the pending claims distinguish over these references. In this regard, U.S. Patent No. 3 807 102 discloses a bridging element 46 which serves as a decorative trim, joins panels 22 and 24 together, and provides support for a tack frame 32 or other structure such as a cabinet. However, the panel arrangement disclosed in the '102 patent does not have an open frame as recited in independent Claims 1, 27, 32 and 36, and also does not include a mounting member or structure which engages the top cap and an upper frame or rail member as recited in independent Claims 10 and 22. Further, the '102 patent does not include a bracket with a flange which projects in between adjacent panel edges as recited in independent Claim 15.

The pending claims also patentably distinguish over the remaining patents cited in the Information Disclosure Statement. These remaining patents are believed to be less relevant than the '102 patent discussed above and will therefore not be specifically addressed herein.

In view of the above, the instant application is believed to be in condition for allowance, and action toward that end is respectfully requested.

Respectfully submitted,



Liane L. Churney

LLC/cc

FLYNN, THIEL, BOUTELL
& TANIS, P.C.
2026 Rambling Road
Kalamazoo, MI 49008-1699
Phone: (269) 381-1156
Fax: (269) 381-5465

Dale H. Thiel
David G. Boutell
Ronald J. Tanis
Terryence F. Chapman
Mark L. Maki
David S. Goldenberg
Sidney B. Williams, Jr.
Liane L. Churney
Brian R. Tumm
Tricia R. Cobb

Reg. No. 24 323
Reg. No. 25 072
Reg. No. 22 724
Reg. No. 32 549
Reg. No. 36 589
Reg. No. 31 257
Reg. No. 24 949
Reg. No. 40 694
Reg. No. 36 328
Reg. No. 44 621

Encl: Marked-up Version of Amendments
Information Disclosure Statement
Post Card

136.0112

MARKED-UP VERSION OF AMENDMENTS

Please amend Claims 1, 5-7, 15 and 17 as follows:

1. (Amended) A space-dividing wall panel assembly comprising:

an open frame defined by a pair of upright and laterally-spaced vertically elongate support members which are rigidly connected to one another by vertically spaced cross members extending laterally between said support members;

a pair of cover members disposed in opposed relation with one another so as to overlies open areas of said frame between said support members, said cover members defining vertical side surfaces of said wall panel assembly;

an elongate top cap positioned longitudinally along an upper one of said cross members, said top cap having an upper portion which defines therein a longitudinally extending and outwardly opening groove and a lower portion which projects downwardly between upper edges of the opposed cover members and for removable securement to said upper cross member; and

a bracket slidably engaged within said groove of said top cap.

5. (Amended) The wall panel assembly of Claim 4 wherein said lower portion of said top cap ~~member~~ defines first and second flanges which project outwardly towards opposite sides of said panel assembly, said mounting member including a pair of opposed clamps disposed on opposite outwardly facing sides of said upper cross member and defining respective channels which open inwardly and toward one another, said first and second flanges each being engaged within the respective channels.

6. (Amended) The wall panel assembly of Claim 5 wherein an elongate fastener extends through each said clamp and is

adjustable to move said clamps toward one another to fixedly secure said top cap member to said upper cross member, and away from one another to release said top cap member from said upper cross member.

7. (Amended) The wall panel assembly of Claim 1 wherein said upper portion of said top cap member defines a generally hollow interior, and said lower portion projects downwardly from a bottom wall of said upper portion for engagement with said upper cross member.

15. (Amended) A space-dividing wall panel assembly comprising:

a frame defined by a pair of upright elongate structural members each having a lower end disposed in supportive engagement with a floor, and a plurality of elongate frame members extending transversely between and interconnecting said structural members;

upper and lower panel members overlying said frame and each being defined by spaced-apart and generally upright~~upwardly extending~~ opposite ends and upper and lower edges extending laterally between said opposite ends, each said panel member additionally including outwardly facing side surfaces disposed between said opposite ends;

an elongate top cap positioned longitudinally along an upper one of said frame members, said top cap having an upper wall structure defining an upwardly-opening T-shaped groove therein, and a lower mounting part which projects downwardly from said upper wall structure and is clampingly engaged with said upper frame member;

an elongate bracket having an upper hook-shaped end slidably engaged within said groove of said top cap and a lower end defining a flange thereon, said flange projecting inwardly between said lower edge of said upper panel and said

upper edge of said lower panel and supportingly engaging a lower one of said frame members; and

a office-type accessory mounted on said bracket.

17. (Amended) The wall panel assembly of Claim 15 wherein said lower frame member defines therein at least one horizontally extending and sidewardly opening elongate groove, said flange of said bracket having a free end which engages within said groove of said lower frame member.